

LEGISLATIVE BILL 68

Approved by the Governor April 28, 1999

Introduced by Suttle, 10

AN ACT relating to the Nebraska Cosmetology Act; to amend sections 71-340 to 71-343, 71-347, 71-351, 71-352, 71-356, 71-362, 71-364, 71-371, 71-374, 71-375 to 71-377, 71-381, 71-382, 71-386, 71-3,106, 71-3,169, 71-3,170, 71-3,174, 71-3,177, and 71-3,179, Reissue Revised Statutes of Nebraska; to provide for regulation of nail technology practitioners, establishments, and education; to harmonize provisions; to repeal the original sections; and to outright repeal section 71-361, Reissue Revised Statutes of Nebraska.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 71-340, Reissue Revised Statutes of Nebraska, is amended to read:

71-340. Sections 71-340 to 71-3,179 and sections 9 to 17, 28 to 43, and 45 to 84 of this act shall be known and may be cited as the Nebraska Cosmetology Act.

Sec. 2. Section 71-341, Reissue Revised Statutes of Nebraska, is amended to read:

71-341. The Legislature finds that: (1) A great number of Nebraska citizens regularly demand and receive cosmetology, nail technology, and electrology services; (2) the practices of cosmetology, nail technology, and electrology involve the use of implements and chemicals that, if used or applied improperly, can be hazardous to human health and safety; (3) inadequate sanitation in the practice of cosmetology, nail technology, or electrology can encourage the spread of contagious diseases, infections, and infestations to the detriment of the health and safety of the public; (4) the knowledge of proper sanitation techniques and the proper use of implements and chemicals can best be gained by rigorous and extensive training in cosmetology, nail technology, and electrology at institutions operated exclusively for such purposes; (5) the need of the public to be served by well-trained persons and the need of cosmetology, nail technology, and electrology students to receive an appropriate education can best be met through the enactment of standards for the approval of schools of cosmetology, nail technology schools, and schools of electrology; (6) the effectiveness of cosmetology, nail technology, or electrology training and the competency to practice can best be demonstrated by the passage of an impartially administered examination before a person is permitted to practice; (7) continued competency can best be demonstrated by participation in formal programs of continuing education; (8) the establishment and maintenance of a safe environment in places where cosmetology, nail technology, or electrology is practiced can best be ensured through the establishment of operating and sanitary requirements for the safe and sanitary operation of such places; (9) the protection of the health and safety of its citizens is a principal concern and duty of the State of Nebraska; and (10) the reasonable regulation and limitation of a field of practice or occupation for the purpose of protecting the health and safety of the public is a legitimate and justified exercise of the police power of the state.

Sec. 3. Section 71-342, Reissue Revised Statutes of Nebraska, is amended to read:

71-342. The Legislature declares its intent to implement the findings specified in section 71-341 through the Nebraska Cosmetology Act, to regulate the practices and professions of cosmetology, nail technology, and electrology and cosmetology, nail technology, and electrology education in all ~~its~~ forms, to limit the practice and teaching of cosmetology, nail technology, or electrology to persons and institutions as stipulated in the Nebraska Cosmetology Act, and to penalize persons violating such act. The Legislature directs that all interpretations of the ~~Nebraska Cosmetology Act~~ act be made with full cognizance of the findings and intentions expressed in sections 71-341 and 71-342.

Sec. 4. Section 71-343, Reissue Revised Statutes of Nebraska, is amended to read:

71-343. For purposes of the Nebraska Cosmetology Act, unless the context otherwise requires, the definitions found in sections 71-344 to 71-372 and sections 9 to 17 of this act shall be used.

Sec. 5. Section 71-347, Reissue Revised Statutes of Nebraska, is

amended to read:

71-347. Charitable administration ~~shall mean~~ means the performance of any or all of the practices of cosmetology or nail technology without compensation for the benefit of charitable purposes or organizations.

Sec. 6. Section 71-351, Reissue Revised Statutes of Nebraska, is amended to read:

71-351. Cosmetology ~~shall mean~~ means the practice of performing for compensation any or all (1) of the acts of arranging, dressing, curling, waving, cleansing, cutting, bleaching, coloring, styling, or similar work upon the hair, wig, wiglet, or hairpiece of any person, by any means, with hands or a mechanical or electrical apparatus or appliance; (2) skin care; ~~and~~ (3) nail technology; and (4) other similar practices upon the hair, scalp, face, neck, arms, hands, feet, or nails of any person when performed for the purpose of beautifying or enhancing physical appearance or the teaching of any practice specified in this section for occupational purposes.

Sec. 7. Section 71-352, Reissue Revised Statutes of Nebraska, is amended to read:

71-352. Cosmetology establishment ~~shall mean~~ means a cosmetology salon, skin care salon, school of cosmetology, apprentice salon, cosmetic establishment, or any other place in which any or all of the practices of cosmetology are performed on members of the general public for compensation or ~~where in which instruction or training in any or all of the practices of cosmetology is given, except when such practices constitute nonvocational training. or relate to manicuring.~~

Sec. 8. Section 71-356, Reissue Revised Statutes of Nebraska, is amended to read:

71-356. Domestic administration ~~shall mean~~ means the performance of any or all of the practices of cosmetology or nail technology upon members of a person's immediate family.

Sec. 9. Nail technician means a person licensed under the Nebraska Cosmetology Act to perform the practices of nail technology.

Sec. 10. Nail technology means (1) attaching, applying, fitting, shaping, or adjusting artificial nails using acrylic, resin, fabric, or gel application systems, (2) sanitizing of the nail bed by brushing on or spraying material in preparation for attaching, fitting, shaping, or adjusting artificial nails using acrylic, resin, fabric, or gel application systems, (3) cutting, filing, buffing, shaping, trimming, polishing, coloring, tinting, cleansing, reshaping, or other cosmetic acts on the nails of a person when done in conjunction with the activities described in subdivisions (1) and (2) of this section, (4) the ability to detect infection, fungus, or nail disorders that contraindicate the application of artificial nails, and (5) cleansing, stimulating, manipulating, exercising, or similar acts on the hands or feet of any person when done in conjunction with the activities described in subdivisions (1) and (2) of this section. Nail technology does not include cutting nail beds, corns, or calluses or medical treatment involving the feet, hands, or nails.

Sec. 11. Nail technology establishment means a nail technology salon, nail technology school, or any other place in which the practices of nail technology are performed on members of the general public for compensation or in which instruction or training in the practices of nail technology is given, except when such practices constitute nonvocational training.

Sec. 12. Nail technology instructor means a person licensed under the Nebraska Cosmetology Act to teach the practices of nail technology in a nail technology school.

Sec. 13. Nail technology salon means a fixed structure or part thereof licensed under the Nebraska Cosmetology Act to serve as the site for the performance of the practices of nail technology by persons licensed or registered under the act.

Sec. 14. Nail technology school means a fixed structure or part thereof licensed under the Nebraska Cosmetology Act to serve as the site for teaching the practices of nail technology to nail technology students.

Sec. 15. Nail technology student means a person engaged in the study of the practices of nail technology under the supervision of a nail technology instructor in a nail technology school.

Sec. 16. Nail technology student instructor means a person engaged in nail technology instructor's training in a nail technology school to teach nail technology students in a nail technology school under the supervision of a nail technology instructor.

Sec. 17. Nail technology temporary practitioner means a person registered under the Nebraska Cosmetology Act to perform the practices of nail technology for a limited time under the supervision of a licensed nail

technician or nail technology instructor.

Sec. 18. Section 71-362, Reissue Revised Statutes of Nebraska, is amended to read:

71-362. Nonvocational training ~~shall mean~~ means the act of imparting knowledge of or skills in any or all of the practices of cosmetology, nail technology, or electrology to persons not licensed or registered under the Nebraska Cosmetology Act for the purpose of noncommercial use by those receiving such training.

Sec. 19. Section 71-364, Reissue Revised Statutes of Nebraska, is amended to read:

71-364. Practitioner ~~shall mean~~ means a person who performs any or all of the practices of cosmetology, nail technology, or electrology for compensation. ~~7 except manicurists.~~

Sec. 20. Section 71-371, Reissue Revised Statutes of Nebraska, is amended to read:

71-371. Teaching ~~shall mean~~ means the act of imparting and demonstrating knowledge of cosmetology, nail technology, or electrology theory and practices to students, nail technology students, or apprentices in an apprentice salon, a school of cosmetology, a nail technology school, or a school of electrology by an instructor, a nail technology instructor, a nail technology student instructor, or a student instructor for the purpose of preparing the students, nail technology students, nail technology student instructors, or apprentices to engage in the occupations of cosmetology, nail technology, skin care, or electrology.

Sec. 21. Section 71-374, Reissue Revised Statutes of Nebraska, is amended to read:

71-374. (1) Except as provided in subsection (2) of this section, the board shall be composed of ~~nine ten~~ ten members, including two school owners, one licensed instructor, two laypersons, one cosmetologist who is a salon owner and who is not a school owner, one electrologist who is not a licensed cosmetologist, one nail technician, and two cosmetologists who are not school owners. The professional members shall be licensed in Nebraska and maintain such license as well as their establishment licenses in good standing. No school owners, salon owners, electrologists, nail technicians, instructors, or cosmetologists may be affiliated with the same establishment.

(2) ~~Within sixty days after September 9, 1995, the State Board of Health shall appoint one layperson for a five-year term and one electrologist for a four-year term.~~

~~(3)~~ By October 1, 1999, the State Board of Health shall appoint one nail technician for a five-year term. The initial nail technician member must be eligible for licensure and obtain a nail technician license by January 1, 2000, to remain eligible to serve on the board.

(3) Members of the board shall be appointed by the State Board of Health from among nominees submitted by professional associations and other interested parties. A person may nominate himself or herself.

(4) The State Board of Health may remove a member of the board for physical or mental incapacity to carry out the duties of a board member, for continued neglect of duty, for incompetency, for acting beyond the individual member's scope of authority, for malfeasance in office, for any cause for which a professional license in the profession involved may be suspended or revoked under the Nebraska Cosmetology Act, or for a lack of licensure in the profession involved.

(5) Vacancies on the board shall be filled in the same manner as original appointments for the remainder of the unexpired term only.

(6) Members of the board, other than the initial members, shall serve for five-year terms, and no member shall serve for more than two consecutive terms excluding any partial term for which he or she may have been appointed.

Sec. 22. Section 71-375, Reissue Revised Statutes of Nebraska, is amended to read:

71-375. (1) ~~Any~~ Until October 1, 1999, any five members of the board shall constitute a quorum for routine business, ~~except that for~~ ~~For~~ matters requiring professional judgment of competency or standards of professional conduct, a quorum shall consist of any four professional members.

(2) On and after October 1, 1999, any six members of the board shall constitute a quorum for routine business, except that for matters requiring professional judgment of competency or standards of professional conduct, a quorum shall consist of any five professional members.

(3) The board shall meet at least twice a year and more often at the call of the chairperson or (a) until October 1, 1999, any four members or (b) on and after October 1, 1999, any five members.

~~(3)~~ (4) The board shall select officers from among its members,

including a chairperson, vice-chairperson, and secretary.

~~(4)~~ (5) Members of the board shall be paid for their expenses as provided in sections 81-1174 to 81-1177 and shall in addition receive a per diem of fifty dollars.

Sec. 23. Section 71-376, Reissue Revised Statutes of Nebraska, is amended to read:

71-376. The department shall:

(1) With the approval of the board, adopt, promulgate, and revise necessary rules and regulations, including procedures for approving cosmetology, nail technology, and electrology establishments;

(2) With the approval of the board, develop standards in cooperation with the owners of cosmetology, nail technology, and electrology establishments to be used in the evaluation and approval of such establishments;

(3) Review such standards at least once every five years;

(4) Survey each licensed cosmetology, nail technology, and electrology establishment every two years for the purpose of determining the establishment's compliance with all relevant laws, rules, and regulations; and

(5) Approve for renewal of its license each cosmetology, nail technology, or electrology establishment found to be operating in compliance with all relevant laws, rules, and regulations.

Sec. 24. Section 71-377, Reissue Revised Statutes of Nebraska, is amended to read:

71-377. The board shall:

(1) Review all reports of alleged violations investigated by the department and recommend action as authorized under the Nebraska Cosmetology Act;

(2) Approve all licensing examinations used;

(3) Serve as consultant to the department in all matters relating to cosmetology, nail technology, or electrology and to the enforcement and implementation of the Nebraska Cosmetology Act; and

(4) Recommend applicants to the department for the professional level position which will be responsible for the daily administration of the Nebraska Cosmetology Act.

Sec. 25. Section 71-381, Reissue Revised Statutes of Nebraska, is amended to read:

71-381. There is hereby created the Cosmetology Cash Fund to receive all money collected from fees pursuant to the Nebraska Cosmetology Act. Expenditures may be made from the fund to administer the act, including, but not limited to:

(1) Expenditures for staff, equipment, supplies, office space, communications, consultants and other professional services, staff travel, and other related expenses involved with the administration of the act and the regulation of cosmetology, nail technology, and electrology;

(2) Per diem, travel, and other related expenses for board members to enable them to perform their required functions;

(3) Expenses necessary to permit board members and staff members to attend national and regional meetings of organizations of state licensing boards. Each board member and professional staff member shall be permitted to attend at least one such meeting each year with expenses paid from the fund;

(4) Expenses for the conducting of examinations; and

(5) Any other expenses related to the administration of cosmetology, nail technology, and electrology licensure and practice approved by the board and the director.

Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 26. Section 71-382, Reissue Revised Statutes of Nebraska, is amended to read:

71-382. Fees shall be set by the board within the dollar ranges provided in this section.

Fee	Initial	Biennial Renewal	Late Renewal Penalty
<u>Practitioner Licenses:</u>			
Cosmetologist license	20-300	16-500	25-75
<u>Nail technician license</u>	<u>10-300</u>	<u>16-500</u>	<u>25-75</u>
Esthetician license	10-300	16-500	25-75
Electrologist license	10-300	16-500	25-75
Electrology instructor	10-300	16-500	25-75
<u>Nail technology instructor</u>	<u>10-300</u>	<u>16-500</u>	<u>25-75</u>
Instructor license	10-300	16-500	25-75

<u>Instructor</u>	10-300	16-500	25-75
<u>Practitioner Registrations:</u>			
Guest artist registration	10-300	--	--
Temporary practitioner registration	5-300	--	--
<u>Nail technology temporary practitioner registration</u>	5-300	--	--
Cosmetician registration	5-300	--	--
<u>Inactive renewal</u>	--	16-500	25-75
Inactive renewal--cosmetologist	--	16-500	25-75
Inactive renewal--instructor, esthetician	--	16-500	25-75
Inactive renewal--electrologist, electrology instructor	--	16-500	25-75
<u>Establishments:</u>			
Cosmetology salon	50-300	20-400	10-35
<u>Nail technology salon</u>	<u>50-300</u>	<u>20-400</u>	<u>10-35</u>
Skin care salon	40-300	20-400	10-35
Cosmetic establishment	20-300	10-400	5-35
Electrology establishment	40-300	25-400	10-35
Apprentice training salon	100-300	25-400	10-35
School of cosmetology	1000-3000	200-750	25-250
School of electrolysis	500-1000	200-750	25-250
<u>Nail technology school</u>	<u>500-1500</u>	<u>100-375</u>	<u>25-125</u>
Satellite classroom	250-750	100-400	25-125
<u>Other:</u>			
Transfer school location within county	250-500	--	--
Duplicate license or registration	5-20	--	--
Certification of grades or hours to another state	5-20	--	--
Continuing education program fee	10-100	--	--
Repeat inspection	30-300	--	--
Home service permit	10-300	20-400	10-35
<u>Home services permit</u>	<u>10-300</u>	<u>20-400</u>	<u>10-35</u>

Sec. 27. Section 71-386, Reissue Revised Statutes of Nebraska, is amended to read:

71-386. (1) All practitioners shall be licensed or registered by the department under the Nebraska Cosmetology Act in a category or categories appropriate to their practice.

(2) Licensure shall be required before any person may engage in the full, unsupervised practice or teaching of cosmetology, electrology, ~~beginning January 1, 1996,~~ skin care, ~~or teaching,~~ or, on or after January 1, 2000, nail technology, and no person may assume the title of cosmetologist, electrologist, ~~beginning January 1, 1996,~~ esthetician, ~~or instructor,~~ or, on or after January 1, 2000, nail technician or nail technology instructor without first being licensed by the department under the Nebraska Cosmetology Act.

Sec. 28. On and after January 1, 2000, (1) licensure shall be required before any person may engage in the full, unsupervised practice of nail technology, (2) no person may assume the title of nail technician or nail technology instructor without first being licensed under the Nebraska Cosmetology Act, and (3) no person, group, company, or other entity shall operate, advertise, or hold himself, herself, or itself out as operating a nail technology establishment in which any of the practices of nail technology are carried out unless such nail technology establishment is licensed under the Nebraska Cosmetology Act.

Sec. 29. On and after January 1, 2000, no person, group, company, limited liability company, or other entity shall engage in any of the following acts without being licensed as required by the Nebraska Cosmetology Act, unless specifically excepted by the act:

- (1) Performing or advertising or holding oneself out as performing or qualified to perform any of the practices of nail technology;
- (2) Teaching or advertising or holding oneself out as teaching or qualified to teach any of the practices of nail technology; or
- (3) Operating or advertising or holding oneself out as operating an establishment in which any of the practices of nail technology are performed

or taught.

Sec. 30. Any person who has been engaged in the practice of nail technology or nail technology instruction may apply to the department for the appropriate license without examination as provided in section 58 of this act.

Sec. 31. In order to be licensed as a nail technician or nail technology instructor by examination, an individual shall meet, and present to the department evidence of meeting, the following requirements:

(1) He or she has attained the age of seventeen years on or before the beginning date of the examination for which application is being made, as evidenced by a birth certificate, baptismal certificate, or other equivalent document as determined by the department;

(2) He or she has completed formal education equivalent to a United States high school education, as evidenced by a high school diploma, general educational development certificate, or equivalent document as determined by the department;

(3) He or she possesses the ability to identify and respond to emergency situations that could occur in the practice of nail technology, as evidenced by successful completion of a basic first-aid course;

(4) He or she files a complete and proper application with the department which includes the individual's social security number, accompanied by the appropriate fee;

(5) He or she possesses sufficient ability to read the English language to permit the applicant to practice in a safe manner, as evidenced by successful completion of the written examination; and

(6) He or she has graduated from a school of cosmetology or nail technology school providing a nail technology program. Evidence of graduation shall include documentation of the total number of hours of training earned and a diploma or certificate from the school to the effect that the applicant has complied with the following:

(a) For licensure as a nail technician, the program of studies shall consist of a minimum of not less than one hundred fifty hours and not more than three hundred hours, as set by the board, sixteen hours of which shall include instruction on operating a nail drill; and

(b) For licensure as a nail technology instructor, the program of studies shall consist of a minimum of not less than one hundred fifty hours and not more than three hundred hours, as set by the board, beyond the program of studies required for licensure as a nail technician and the individual shall be currently licensed as a nail technician in Nebraska as evidenced by possession of a valid Nebraska nail technician license.

The department shall grant a license in the appropriate category to any person meeting the requirements specified in this section.

Sec. 32. (1) An application for any type of nail technology licensure or registration shall be made on forms and in the manner prescribed by the department with the approval of the board. No application for any type of licensure or registration shall be considered complete unless all information requested on the application form has been supplied, all seals and signatures required have been obtained, all supporting and documentary evidence has been received by the department, and the application is accompanied by the appropriate fee.

(2) If an applicant for an initial license or registration files an application for licensure or registration within ninety days prior to the biennial renewal date of such a license or registration, the applicant may either:

(a) Request that the department delay the processing of the application and the issuance of the license or registration until the biennial renewal date and pay only the fee for initial licensure or registration; or

(b) Request that a license or registration which will be valid until the next subsequent renewal date be issued immediately and pay the fee for initial licensure or registration and an additional fee of one-fourth of the biennial fee.

Sec. 33. No person shall be permitted to take an examination for licensure as a nail technician or nail technology instructor unless he or she has met all the requirements of section 31 or 39 of this act.

A complete application for examination shall be postmarked no later than fifteen days before the beginning of the examination for which application is being made. Applications received after such date shall be considered as applications for the next scheduled examination.

Sec. 34. The board shall approve and the department shall cause examinations to be administered as required for licensure in nail technology under the Nebraska Cosmetology Act for the purpose of establishing the possession of minimum competency in the knowledge and skills required on the part of the applicant.

The department shall provide at least one year's notice of future examination dates to nail technology schools and schools of cosmetology. Such schools shall be responsible for notifying their students of upcoming examination dates.

Sec. 35. (1) Examinations approved by the board may be national standardized examinations, but in all cases the examinations shall be related to the knowledge and skills necessary to perform the practices being examined and shall be related to the curricula required to be taught in nail technology programs.

(2) The board shall fix the time and place of each examination no less than one year in advance. At least two examinations shall be given annually. All examinations shall be conducted in the city of Lincoln unless ordered otherwise by the department.

(3) If examinations are administered directly by the department, the examination shall be administered by a chief examiner who shall be an employee of the department.

(4) In order to successfully complete the examination, an applicant shall obtain an average grade of seventy-five percent on the written examination.

(5) The department shall keep a permanent record of all grades received in examinations and shall provide any individual a copy of his or her grades upon request without charge.

(6) The department may adopt and promulgate rules and regulations to provide for procedures, development, administration, scoring, and reviewing of examinations and to protect the security of the contents of examination questions and answers in the examination review. The department shall not enter into an agreement to adopt an examination from a national testing service without first obtaining from such service detailed documentation of the process of examination development and maintenance.

Sec. 36. (1) An individual failing the examination under sections 34 and 35 of this act may retake the examination within one year of the date of the failed examination by submitting a written request to the department to retake the examination. The applicant may retake the examination one time without paying an additional fee.

(2) After examination grades have been approved by the board and the department, the department shall promptly notify each applicant of the results of his or her examination.

Sec. 37. Except for persons taking the examination under section 39 of this act, no person may take his or her initial examination for licensure in nail technology more than two years after the date upon which he or she graduated from the program of studies preparing him or her for such examination.

Sec. 38. An applicant for licensure under sections 31 to 36 of this act may review his or her examination questions, answers, papers, grades, and grading key or standards used in the licensure examinations under such terms and conditions as may be established by the department, with the following restrictions:

(1) No such review shall be permitted which violates any contractual agreement between the department and the testing agency providing the examination; and

(2) No material made available for review may be copied in any manner by the applicant or his or her representatives.

Sec. 39. The department may grant a license to a nail technician or nail technology instructor who presents proof of the following:

(1) He or she has attained the age of seventeen years, as evidenced by a birth certificate, baptismal certificate, or other equivalent document as determined by the department;

(2) He or she has completed formal education equivalent to a United States high school education, as evidenced by a high school diploma, general educational development certificate, or equivalent document as determined by the department;

(3) He or she has filed a complete and proper application with the department which includes the individual's social security number, accompanied by the appropriate fee;

(4) He or she is currently licensed as a nail technician or its equivalent or as a nail technology instructor or its equivalent in another jurisdiction, that he or she has never been disciplined or had his or her license revoked, and that, so far as the records of the licensing authority of the jurisdiction are concerned, the applicant is entitled to its endorsement;

(5) For licensure as a nail technician, evidence of:

(a) Completion of a program of nail technician studies consisting of a minimum of not less than one hundred fifty hours and not more than three

hundred hours, as set by the board, sixteen hours of which shall include instruction on operating a nail drill, and successful passage of a written examination. If a written examination was not required for licensure in another jurisdiction, the applicant must take the Nebraska written examination; or

(b) At least twelve months of practice as a nail technician following issuance of such license in another jurisdiction; and

(6) For licensure as a nail technology instructor, evidence of:

(a) Completion of a program of studies consisting of a minimum of not less than one hundred fifty hours and not more than three hundred hours, as set by the board, beyond the program of studies required for licensure in another jurisdiction as a nail technician, successful passage of a written examination, and current licensure as a nail technician in Nebraska as evidenced by possessing a valid Nebraska nail technician license. If a written examination was not required for licensure as a nail technology instructor, the applicant must take the Nebraska written examination; or

(b) At least twelve months of practice as a nail technology instructor following issuance of such license in another jurisdiction.

Sec. 40. Every person holding a license or registration in nail technology issued by the department under the Nebraska Cosmetology Act shall display it in a conspicuous place in his or her principal place of employment, and every nail technology establishment shall so display the licenses and registrations of all practitioners there employed.

Sec. 41. On and after January 1, 2000, registration shall be required before any person may act as a nail technology temporary practitioner, and no person shall assume such title without first being registered by the department under section 42 of this act.

Sec. 42. An applicant for registration as a nail technology temporary practitioner shall file a complete and proper application with the department and shall show evidence that his or her completed application for licensure has been accepted by the department, that he or she has not failed any portion of the licensure examination, and that he or she has been accepted for work in a licensed nail technology or cosmetology establishment under the supervision of a licensed nail technician or licensed cosmetologist.

Sec. 43. Registration as a nail technology temporary practitioner shall be granted for a set period of time and cannot be renewed. Registration shall expire six weeks following the written examination date or upon receipt of examination results, whichever occurs first. The registration of a temporary practitioner who fails to take the first regularly scheduled examination shall expire immediately after the beginning of the examination unless the board finds that the temporary practitioner was unable to attend the examination due to an emergency or other valid circumstances. If the board so finds, it may extend the registration until six weeks after the date of the next regularly scheduled written examination or until receipt of the examination results, whichever occurs first. No registration may be extended in such manner more than once for each temporary practitioner.

Sec. 44. Section 71-3,106, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,106. ~~Nothing in the~~ The Nebraska Cosmetology Act shall be construed to does not apply to or restrict the activities of the following:

(1) Any person holding a current license or certificate issued pursuant to Chapter 71 when engaged in the usual and customary practice of his or her profession or occupation;

(2) Any person engaging solely in ear piercing, tattooing, or other invasive beautification practices;

(3) Any person when engaged in domestic or charitable administration;

(4) Any person performing any of the practices of cosmetology or nail technology solely for theatrical presentations or other entertainment functions;

(5) Any person practicing within the confines of a hospital, nursing home, massage therapy establishment, funeral establishment, or other similar establishment or facility licensed or otherwise regulated by the department, except that no unlicensed or unregistered person may accept compensation for such practice;

(6) Any person providing services during a bona fide emergency;

(7) Any retail or wholesale establishment or any person engaged in the sale of cosmetics, nail technology products, or other beauty products when the products are applied by the customer or when the application of the products is in direct connection with the sale or attempted sale of such products at retail;

(8) Any person when engaged in nonvocational training; and

~~(9) Any retail or wholesale establishment or any person engaged in the practice or teaching of manicuring; and~~

~~(10) (9) A person demonstrating on behalf of a manufacturer or distributor any cosmetology, nail technology, or electrolysis equipment or supplies if such demonstration is performed without charge.~~

Sec. 45. (1) Each nail technician license or nail technology instructor license issued under the Nebraska Cosmetology Act shall expire and be subject to renewal every two years. All nail technician and nail technology instructor licenses shall expire and be subject to renewal on December 31 of each odd-numbered year.

(2) At least thirty days before the expiration date, the department shall notify each licensee by a letter addressed to the licensee at the last address contained in the department's records. Any licensee who fails to pay the renewal fee or file a complete application for renewal on or before the date of expiration of the license shall be given a second notice in the same manner, advising him or her that:

(a) The renewal fee has not been received or the application is incomplete;

(b) The license has expired;

(c) The department will suspend action for thirty days following the date of expiration;

(d) If the fees are or a complete application is received within such thirty-day period, no order of revocation will be entered;

(e) If the inactive renewal fee is received within such thirty-day period, the license will be placed on inactive status and no order of revocation will be entered; and

(f) Upon failure to receive the fee or complete application under either subdivision (d) or (e) of this subsection within such thirty-day period, an order of revocation will be entered.

(3) Any licensee who allows his or her license to expire by failure to renew according to this section may petition the department for reinstatement. Reinstatement may be granted upon the recommendation of the board and upon receipt by the department of a complete application for reinstatement accompanied by all regular renewal fees and the late renewal fee.

(4) No license may be renewed or reinstated unless the licensee provides evidence of compliance with the continuing education provisions contained in section 46 of this act.

Sec. 46. On and after January 1, 2000, a licensed nail technician or nail technology instructor shall not renew his or her license to practice unless he or she has obtained, within the biennium immediately preceding the date of expiration of the license, the number of hours of approved continuing education required for his or her type of license as designated in the Nebraska Cosmetology Act and complied with all other requirements of the act. Continuing education shall be measured in terms of hours of participation in an approved continuing education program, and each fifty minutes of participation shall constitute one hour.

The number of hours of approved continuing education required shall be as follows:

(1) For a license to practice nail technology, eight hours; and

(2) For a license to practice as a nail technology instructor, twelve hours.

Sec. 47. Each licensed nail technician and licensed nail technology instructor shall submit with his or her application for license renewal a signed and notarized affidavit affirming that the licensee has obtained the required hours of continuing education within the preceding biennium and listing the approved programs in which the licensee participated in order to obtain such hours. The board may require further evidence to substantiate the licensee's statement at its discretion. The board may biennially select, in a random manner, a sample of the license renewal applications for audit of continuing education credits, except that such information shall be requested by the board within three years after the date on which the program was held. Each licensee selected for audit shall be required to produce documentation of his or her attendance at the continuing education seminars listed on his or her renewal application.

Sec. 48. Each continuing education program approved by the board shall provide for the maintenance of the technical skills and knowledge needed to safely practice nail technology. Such program shall include at least one of the following: The safe use of various chemical compounds, sanitation techniques, or the knowledge of allergic reactions to chemicals applied to the nails.

Sec. 49. The department, with the recommendations from the board,

shall adopt and promulgate rules and regulations for the classification and approval of continuing education programs. Such rules and regulations shall include, but not be limited to, a requirement that:

(1) The program relate to the practices of nail technology in which the licensee is licensed to engage; and

(2) The program be presented, conducted, and prepared by persons who are considered by the board to be knowledgeable in the subject matter of the program or activity by virtue of education, training, or experience.

Sec. 50. (1) Any continuing education program offered within the state shall be open to all licensed nail technicians and licensed nail technology instructors in the state. Any program offered outside the state shall be approved by the appropriate accrediting body within the state in which it is held or by Nebraska if such jurisdiction does not require approval by an accrediting body.

(2) The board shall certify as approved continuing education programs those courses, lectures, seminars, demonstrations, activities, correspondence or home study courses, or other instructional programs that meet the guidelines developed under sections 46 to 49 of this act.

(3) An application for approval for a continuing education program shall be submitted to the board at least sixty days prior to the date upon which the sponsor wishes to announce the program as approved. Approval may be granted after such date, but persons presenting or attending programs which were not preapproved will not receive credit if the program is rejected by the board. The application for approval shall be filed by the person providing the program or by an individual licensee and shall contain such evidence as the board may deem necessary to ensure that the program and presentation will comply with the Nebraska Cosmetology Act and all pertinent rules and regulations adopted and promulgated under such act. A separate application shall be filed for each program proposed.

(4) The board shall review each application to determine if it meets the criteria for approval. The board shall notify each applicant of its determination within thirty days after receipt of the completed application.

(5) If a program is approved, the board shall issue a program number to the provider.

(6) If the program is not approved, the applicant's material and application shall be returned and a written explanation of the program's deficiencies shall be given to the applicant.

(7) The board shall certify the number of hours to be awarded for participation in each approved continuing education program.

Sec. 51. Each nail technician and nail technology instructor shall be responsible for maintaining the records of his or her continuing education activities. Each provider of an approved continuing education program shall maintain such records as are necessary to establish the program's approval and the persons who attended for a period of three years.

Sec. 52. Each provider of an approved nail technology continuing education program shall furnish to each person completing the program a certificate of completion. Each certificate shall include the following:

(1) Program name and number;

(2) Name of the participant and his or her license number;

(3) Provider's name;

(4) Date the program began and ended;

(5) Number of hours for which the program was approved; and

(6) Category in which the program was classified, whether nail technician or nail technology instructor.

Presentation of the certificate by the provider shall constitute evidence that the person complied with all requirements of the program and did complete the program. The provider shall employ some reliable system to monitor the physical presence of participants throughout the entire program. If a participant chooses not to participate in the entire program, the certificate of attendance shall reflect the participant's actual hours of attendance.

Sec. 53. The board may approve nail technology continuing education programs such as correspondence courses and home study courses that do not require an individual to attend a session or program. The board may modify any of the requirements of sections 46 to 52 of this act when it finds such requirements to be inappropriate for a nonattendance program. No more than one-fourth of a person's required continuing education hours each biennium may be earned in nonattendance programs.

Sec. 54. A nail technician or nail technology instructor who fails to earn the required number of continuing education hours in a biennium, and who is not exempted from such requirement by the Nebraska Cosmetology Act, may request that his or her license be placed on inactive status upon its

expiration. Such a request shall be granted upon payment of the required fee. No person shall practice in any manner under an inactive or revoked license. An inactive license may be restored to active status at such time as the licensee so petitions the department and presents evidence that he or she has completed the number of approved continuing education hours required as follows:

(1) For a license inactive or revoked for less than two years, the amount of continuing education hours required for regular renewal;

(2) For a license inactive or revoked for at least two years, but less than six years, two times the amount of continuing education hours required for regular renewal;

(3) For a license inactive or revoked for at least six years, but less than ten years, three times the amount of continuing education hours required for regular renewal; and

(4) For a license inactive or revoked for ten years or more, four times the amount of continuing education hours required for regular renewal.

Hours of continuing education earned for the purpose of restoring an inactive or revoked license shall not be counted toward fulfillment of the renewal requirement for the next biennium.

Sec. 55. The following classes of persons have a limited exemption from the nail technology continuing education requirements of the Nebraska Cosmetology Act:

(1) Any licensee submitting proof that he or she was suffering from a serious or disabling illness or disability that prevented him or her from completing the continuing education requirements shall be exempt for the biennium if, by the renewal date, he or she is able to practice effectively and to attend continuing education seminars. Any licensee who remains unable to practice effectively at his or her regularly scheduled renewal date shall be placed on inactive status. A physician's statement shall be submitted in support of any request for a continuing education exemption based on an illness or disability;

(2) Any licensee submitting proof of service in the regular armed forces of the United States during any part of the immediately preceding biennium shall be exempt for that biennium;

(3) Any person receiving an initial nail technology license in Nebraska during the second year of the biennium shall be exempt for that biennium only;

(4) Any licensee submitting proof that he or she has not lived in Nebraska at any time during the twenty-four months immediately preceding the date of license renewal and who has not provided nail technology services in Nebraska at any time during such period shall be exempt for that biennium; and

(5) A nail technology instructor who meets the continuing education requirements for the nail technology instructor's license shall be exempt from meeting the continuing education requirements for his or her nail technician license for that biennium.

Sec. 56. The department shall not renew or reinstate the license of any nail technician or nail technology instructor who has not complied with the continuing education requirements of the Nebraska Cosmetology Act.

Sec. 57. On and after January 1, 2000, no person shall operate or profess or attempt to operate a nail technology establishment unless such establishment is licensed by the department under the Nebraska Cosmetology Act. The department shall not issue or renew a license for a nail technology establishment until all requirements of the Nebraska Cosmetology Act have been complied with. No person shall engage in any of the practices of nail technology in any location or premises other than a licensed nail technology or cosmetology establishment except as specifically permitted in the Nebraska Cosmetology Act.

Sec. 58. (1) Any person practicing any of the practices of nail technology or any person operating an establishment that did not require licensure, registration, or other credentials in nail technology prior to the effective date of this act but does require such credentials on or after such date shall be permitted to continue practicing or operating and apply to the department for the appropriate license, registration, or other credential without meeting any of the requirements of the Nebraska Cosmetology Act for initial licensure if:

(a) Such application is made on or before November 1, 1999;

(b) The required fee is submitted; and

(c) The applicant provides a written statement of his or her intention to comply with all provisions of the Nebraska Cosmetology Act and all rules and regulations adopted and promulgated under such act.

(2) The department shall issue an original license, registration, or permit in the appropriate category to each such applicant upon payment of the

appropriate fee for the original credential. Each such credential granted shall expire and be subject to renewal at the same time as all others in its class and shall be subject to the same requirements for renewal as all others in its class. Any license issued pursuant to this section shall be effective on and after January 1, 2000.

Sec. 59. In order to be licensed as a nail technology salon by the department, an applicant shall meet, and present to the department evidence of meeting, the following requirements:

(1) The proposed nail technology salon shall be a fixed, permanent structure or part of one;

(2) The proposed nail technology salon shall be physically separated from all other business or residential activities except cosmetology, barbering, and retail sales;

(3) The separation required in subdivision (2) of this section shall be by fixed walls or by partitions not less than six feet high;

(4) All areas of the nail technology salon, including those used for retail sales, shall comply with the sanitary requirements of the Nebraska Cosmetology Act;

(5) A nail technology salon located in a residence shall be entirely distinct and separate from any living quarters, except that there may be one connecting door to the living portion of the dwelling as an access entrance to the salon for the owner or operator, but such entrance shall not be for the use of the general public;

(6) The entrance into the proposed nail technology salon used by the general public shall lead directly from the outside to the salon, except that a salon located in a commercial building may have its entrance open from a public area such as a foyer, hallway, mall, concourse, or retail sales floor;

(7) The proposed nail technology salon shall have at least one hundred fifty square feet of floor space. If more than one practitioner is to be employed in the salon at the same time, the salon shall contain an additional space of at least fifty square feet for each additional practitioner, except that a salon employing a licensee exclusively to perform home services need not provide additional space for such employee;

(8) The proposed nail technology salon shall include toilet facilities unless the salon is located in a commercial building in which public toilet facilities are available that open directly off of a public area;

(9) The proposed nail technology salon shall have handwashing facilities within the salon; and

(10) The proposed nail technology salon shall meet all state or local building code and fire code requirements.

Sec. 60. Any person seeking a license to operate a nail technology salon shall submit an application to the department. The application shall be on such forms and shall include such information as the department and the board may require. A completed application shall be received by the department at least thirty days before construction or remodeling of the building proposed for use is scheduled to begin. If the applicant is an individual, the application shall include the applicant's social security number. If no construction or remodeling is planned, the application shall be submitted at least thirty days before the proposed opening of the salon for operation. Along with the application the applicant shall submit:

(1) A detailed floor plan or blueprint of the proposed salon sufficient to demonstrate compliance with the requirements of section 59 of this act; and

(2) A statement confirming application for minimal property damage, bodily injury, and liability insurance coverage for the proposed salon.

Sec. 61. Each application for a license to operate a nail technology salon shall be reviewed by the department for compliance with the requirements of the Nebraska Cosmetology Act. If an application is denied, the applicant shall be informed in writing of the grounds for denial and such denial shall not prejudice future applications by the applicant. If an application is approved, the department shall issue the applicant a certificate of consideration to operate a salon pending an operation inspection. The department shall conduct an operation inspection of each salon issued a certificate of consideration within six months after the issuance of such certificate. Salons passing the inspection shall be issued a permanent license. Salons failing the inspection shall submit within fifteen days evidence of corrective action taken to improve those aspects of operation found deficient. If evidence is not submitted within fifteen days or if after a second inspection the salon does not receive a satisfactory rating, it shall immediately relinquish its certificate of consideration and cease operation.

Sec. 62. In order to maintain its license in good standing, each

nail technology salon shall operate in accordance with the following requirements:

(1) The nail technology salon shall at all times comply with all applicable provisions of the Nebraska Cosmetology Act and all rules and regulations adopted and promulgated under such act;

(2) The nail technology salon owner or his or her agent shall notify the department at least thirty days prior to any change of ownership, name, or address, and at least one week prior to closure, except in emergency circumstances as determined by the department;

(3) No nail technology salon shall permit any unlicensed or unregistered person to perform any of the practices of nail technology within its confines or employment;

(4) The nail technology salon shall display a name upon, over, or near the entrance door distinguishing it as a nail technology salon;

(5) The nail technology salon shall permit any duly authorized agent of the department to conduct an operation inspection or investigation at any time during the normal operating hours of the nail technology salon, without prior notice, and the owner and manager shall assist the inspector by providing access to all areas of the nail technology salon, all personnel, and all records requested by the inspector;

(6) The nail technology salon shall display in a conspicuous place the following records:

(a) The current license or certificate of consideration to operate a nail technology salon;

(b) The current licenses or registrations of all persons employed by or working in the nail technology salon; and

(c) The rating sheet from the most recent operation inspection;

(7) At no time shall a nail technology salon employ more employees than permitted by the square footage requirements of the Nebraska Cosmetology Act; and

(8) The nail technology salon shall not knowingly permit its employees or clients to use, consume, serve, or in any manner possess or distribute intoxicating beverages or controlled substances upon its premises during the hours the nail technology salon is open to the public.

Sec. 63. Each nail technology salon license issued under the Nebraska Cosmetology Act shall expire and be subject to renewal on September 30 of each odd-numbered year. The procedure for renewing a nail technology salon license shall be identical to that for renewing a nail technician license, except that in addition to all other requirements, no salon license may be renewed unless the nail technology salon has attained a rating of satisfactory on its most recent operation inspection. Any nail technology salon not able to meet such requirement shall have its license placed on inactive status until all deficiencies of operation have been corrected, and the nail technology salon shall not be open to the public during the time its license is inactive.

Sec. 64. A nail technology salon license that has been revoked for any reason shall not be reinstated. An original application for licensure shall be submitted and approved before such salon may reopen for business.

Sec. 65. Each nail technology salon license issued shall be in effect solely for the owner or owners and premises named on the license and shall lapse automatically upon any change of ownership or location. An original application for licensure shall be submitted and approved before such salon may reopen for business.

Sec. 66. The owner of each nail technology salon shall have full responsibility for ensuring that the salon is operated in compliance with all applicable laws, rules, and regulations and shall be liable for any and all violations occurring in the salon.

Sec. 67. In order to be licensed as a nail technology school by the department, an applicant shall meet, and present to the department evidence of meeting, the following requirements:

(1) The proposed school shall be a fixed, permanent structure or part of one;

(2) The proposed school shall have a contracted enrollment of students;

(3) The proposed school shall contain at least five hundred square feet of floor space and facilities, staff, apparatus, and equipment appropriate to its projected enrollment in accordance with the standards established by the board and the department by rule and regulation; and

(4) The proposed school shall not have the same entrance as or direct access to a cosmetology salon or nail technology salon.

Sec. 68. A licensed school of cosmetology is not required to be licensed as a nail technology school in order to provide a nail technology

program.

Sec. 69. Any person seeking a license to operate a nail technology school shall submit an application to the department. The application shall be on such forms and shall include such information as the department and the board may require. A completed application shall be received by the department at least thirty days before construction or remodeling of the building proposed for use is scheduled to begin. If no construction or remodeling is planned, the application shall be received at least thirty days before the proposed opening of the school. If the applicant is an individual, the application shall include the applicant's social security number.

Sec. 70. Along with the application, an applicant for a license to operate a nail technology school shall submit:

(1) A detailed floor plan or blueprint of the proposed school building sufficient to show compliance with the relevant rules and regulations;

(2) A statement confirming application for minimal property damage, personal injury, and liability insurance coverage for the proposed school;

(3) A copy of the curriculum to be taught for all courses;

(4) A copy of the school rules and the student contract;

(5) A list of the names and credentials of all persons licensed or registered under the Nebraska Cosmetology Act to be employed by the school and the name and qualifications of the school manager;

(6) A completed nail technology education evaluation scale;

(7) A schedule of proposed hours of operation and class and course scheduling;

(8) Any additional information the department may require; and

(9) The required fee set pursuant to section 71-382.

A nail technology school's license shall be valid only for the location named in the application. When a school desires to change locations, it shall comply with section 78 of this act.

Sec. 71. Each application for a license to operate a nail technology school shall be reviewed by the department for compliance with the requirements of the Nebraska Cosmetology Act. If an application is denied, the applicant shall be informed in writing of the grounds for denial and such denial shall not prejudice future applications by the applicant. If an application is accepted, the board and the department shall immediately conduct an accreditation inspection of the proposed school. A school passing the inspection shall be issued a license and may begin operation as soon as the inspection results are received. If the proposed school fails the inspection, the applicant shall submit, within fifteen days, evidence of corrective action taken to improve those aspects of operation found deficient. If, after a second inspection to be conducted within thirty days after receipt of evidence, the school does not receive a satisfactory rating, or if evidence is not received within fifteen days, the application may be denied.

Sec. 72. In order to maintain its license in good standing, each nail technology school shall operate in accordance with the following requirements:

(1) The school shall at all times comply with all applicable provisions of the Nebraska Cosmetology Act and all rules and regulations adopted and promulgated under such act;

(2) The school owner or owners or their authorized agent shall notify the department at least thirty days prior to any change of ownership, name, or address, and at least sixty days prior to closure, except in emergency circumstances as determined by the department;

(3) No school shall permit anyone other than a nail technology student, nail technology student instructor, or nail technology instructor to perform any of the practices of nail technology within its confines or employ, except that such restriction shall not prevent a school from inviting guest teachers who are not licensed or registered to provide lectures to students or student instructors if the guest lecturer does not perform any of the practices of nail technology;

(4) The school shall display a name upon or near the entrance door designating it as a nail technology school;

(5) The school shall display in a conspicuous place within the clinic area a sign reading: All services in this school are performed by students who are training in nail technology. A notice to such effect shall also appear in all advertising conducted by the school for its clinic services;

(6) The school shall permit any duly authorized agent of the department to conduct an operation inspection or investigation at any time during the normal operating hours of the school without prior notice, and the owner or manager shall assist the inspector by providing access to all areas

of the school, all personnel, and all records requested by the inspector;

(7) The school shall display in a conspicuous place the following records:

(a) The current license to operate a nail technology school;

(b) The current licenses or registrations of all persons licensed or registered under the act, except students, employed by or working in the school; and

(c) The rating sheet from the most recent accreditation inspection;

(8) At no time shall a school enroll more students than permitted by the Nebraska Cosmetology Act or the rules and regulations adopted and promulgated under such act;

(9) The school shall not knowingly permit its students, employees, or clients to use, consume, serve, or in any other manner possess or distribute intoxicating beverages or controlled substances upon its premises during the hours the school is in operation;

(10) Food shall not be consumed in any area where nail technology services are being taught or performed and food shall not be stored in the same area where chemical supplies or used equipment is stored;

(11) No nail technology instructor or nail technology student instructor shall perform, and no school shall permit such person to perform, any of the practices of nail technology on the public in a nail technology school other than that part of the practical work which pertains directly to the teaching of practical subjects to nail technology students or nail technology student instructors, and complete nail technology services shall not be provided for a client unless done in a demonstration class of theoretical or practical studies;

(12) The school shall maintain space, staff, library, teaching apparatus, and equipment as established by rules and regulations adopted and promulgated under the Nebraska Cosmetology Act;

(13) The school shall keep a daily record of the attendance and clinical performance of each student and student instructor;

(14) The school shall maintain regular class and instructor hours and shall require the minimum curriculum;

(15) The school shall establish and maintain criteria and standards for student grading, evaluation, and performance and shall award a certificate or diploma to a student only upon completing a full course of study in compliance with such standards, except that no student shall receive such certificate or diploma until he or she has satisfied or made an agreement with the school to satisfy all outstanding financial obligations to the school;

(16) The school shall maintain on file the enrollment of each student; and

(17) The school shall print and provide to each student a copy of the school rules, which shall not be inconsistent with the Nebraska Cosmetology Act or with the rules and regulations adopted and promulgated under such act and which shall include policies of the school with respect to tuition, reimbursement, conduct, attendance, grading, earning of hours and credits, demerits, penalties, dismissal, graduation requirements, dress, and other information sufficient to advise the student of the standards he or she will be required to maintain. The board may review any school's rules to determine their consistency with the intent and content of the Nebraska Cosmetology Act and its rules and regulations and may overturn any school rules found not to be in accord.

Sec. 73. In order to maintain its license in good standing, each nail technology school shall operate in accordance with the following requirements:

(1) Every person accepted for enrollment as a standard student shall meet the following qualifications:

(a) He or she has attained the age of seventeen years on or before the date of his or her enrollment in a nail technology school;

(b) He or she has completed the equivalent of a high school education; and

(c) He or she has not undertaken any training in nail technology in this state after January 1, 2000, without being enrolled as a nail technology student;

(2) Every person accepted for enrollment as a special study nail technology student shall meet the following requirements:

(a) He or she has attained the age of seventeen years on or before the date of enrollment in a nail technology school;

(b) He or she has completed the tenth grade; and

(c) He or she is actively continuing his or her formal high school education on a full-time basis as determined by the department.

Special study nail technology students shall be limited to attending

a nail technology school for no more than eight hours per week during the school year;

(3) Proof of age shall consist of a birth certificate, baptismal certificate, or other equivalent document as determined by the department. Evidence of education shall consist of a high school diploma, general educational development certificate, or equivalent document as determined by the department. No nail technology school shall accept an individual for enrollment who does not provide evidence of meeting the age and education requirements for registration;

(4) Every person accepted for enrollment as a nail technology student instructor shall show evidence of current licensure as a nail technician in Nebraska and completion of formal education equivalent to a United States high school education;

(5) The school shall, at all times the school is in operation, have at least one nail technology instructor in the school for each twenty students or fraction thereof enrolled in the school, except that beginning and advanced students shall be taught in separate classes;

(6) The school shall not permit any nail technology student to render clinical services on members of the public with or without fees until such student has satisfactorily completed the beginning curriculum, except that the board may establish guidelines by which it may approve such practices as part of the beginning curriculum;

(7) No school shall pay direct compensation to any of its nail technology students. Nail technology student instructors may be paid as determined by the school;

(8) All nail technology students and nail technology student instructors shall be under the supervision of a nail technology instructor or nail technology student instructor at all times when nail technology services are being taught or performed;

(9) Once a nail technology student has been classified as a permanent drop, if after two years the student has not reenrolled in a nail technology school in Nebraska or transferred his or her hours to a school in another state, all hours earned by the student shall be declared void;

(10) No student shall be permitted by the school to train or work in a school in any manner for more than ten hours a day; and

(11) The school shall not credit a nail technology student or nail technology student instructor with hours except when such hours were earned in the study or practice of nail technology in accordance with the required curriculum. Hours shall be credited on a daily basis. Once credited, hours cannot be removed or disallowed except by the department upon a finding that the hours have been wrongfully allowed.

Sec. 74. Nail technology students or nail technology student instructors may transfer from one nail technology school in Nebraska to another at any time.

The school to which the student is transferring shall be entitled to receive from the student's previous school, upon request, any and all records pertaining to the student.

Sec. 75. Nail technology students or nail technology student instructors may transfer into a nail technology school in Nebraska from a school in another state if:

(1) The school in the other state meets all requirements of section 73 of this act; and

(2) The student submits to the department evidence that the school from which he or she is transferring was fully accredited by the appropriate body in that state at the time the student attended.

In order to be honored in Nebraska, some portion of the nail technology student's hours shall have been earned within the two years immediately prior to the transfer. The board and the department shall adopt and promulgate rules and regulations for determining the manner in which hours shall be awarded to students or nail technology students transferring from such schools.

Sec. 76. No nail technology school shall at any time enroll more than one nail technology student instructor for each full-time nail technology instructor actively working in and employed by the school.

Sec. 77. Each nail technology school license issued under the Nebraska Cosmetology Act shall expire and be subject to renewal on December 31 of each odd-numbered year. The procedure for renewing a school license shall be identical to that for renewing a nail technology salon license, except that, in addition to all other requirements, the nail technology school shall receive a satisfactory rating on an accreditation inspection conducted by the board and the department, in consultation with the State Department of Education, within the six months immediately prior to the date of license

renewal.

Any nail technology school not able to meet the requirements for license renewal shall have its license placed on inactive status until all deficiencies have been corrected, and the school shall not operate in any manner during the time its license is inactive. If the deficiencies are not corrected within six months after the date of license renewal, the license may be revoked unless the board approves an extension of the time limit. The license of a school that has been revoked or lapsed for any reason shall not be reinstated. An original application for licensure shall be submitted and approved before such school may reopen.

Sec. 78. Each nail technology school license issued shall be in effect solely for the owner or owners and premises named thereon and shall lapse automatically upon any change of ownership or change in the county of location. An original application for licensure shall be submitted and approved before such school may reopen, except that a school moving to a new location within the same county may do so by filing an application as required by the department, paying the required fee, submitting a new floor plan, and passing an operation inspection. Materials shall be received by the department no less than thirty days prior to the move, and all provisions of this section shall be complied with before the school may begin operation at its new location.

Sec. 79. A licensed nail technology salon may employ licensed nail technicians to perform nail technology home services by meeting the following requirements:

(1) In order to be issued a nail technology home services permit by the department, an applicant shall hold a current active cosmetology salon license or nail technology salon license; and

(2) Any person seeking a nail technology home services permit shall submit an application to the department. The application shall be on such forms and shall contain such information as the department and the board may require. A complete application shall be received by the department at least ten days before the proposed date for beginning home services. Along with the application the applicant shall submit evidence of application for liability insurance or bonding.

The department shall issue a nail technology home services permit to each applicant meeting the requirements set forth in this section.

Sec. 80. In order to maintain in good standing or renew its nail technology home services permit, a nail technology salon shall at all times operate in accordance with all requirements for operation, maintain its license in good standing, and comply with the following requirements:

(1) Clients receiving nail technology home services shall be in emergency circumstances which shall generally be defined as any condition sufficiently immobilizing to prevent the client from leaving his or her residence regularly to conduct routine affairs of daily living such as grocery shopping, visiting friends and relatives, attending social events, attending worship services, and other similar activities. Emergency circumstances may include such conditions or situations as:

(a) Chronic illness or injury leaving the client bedridden or with severely restricted mobility;

(b) Extreme general infirmity such as that associated with the aging process;

(c) Temporary conditions including, but not limited to, immobilizing injury and recuperation from serious illness or surgery;

(d) Having sole responsibility for the care of an invalid dependent requiring constant attention; or

(e) Any other conditions that, in the opinion of the board, meet the general definition of emergency circumstances;

(2) The nail technology salon shall determine that each person receiving nail technology home services meets the requirements of subdivision (1) of this section and shall:

(a) Complete a client information form supplied by the department before nail technology home services may be provided to any client; and

(b) Keep on file the client information forms of all clients it is currently providing with nail technology home services or to whom it has provided such services within the past two years;

(3) The nail technology salon shall employ or contract with persons licensed under the Nebraska Cosmetology Act to provide nail technology home services and shall not permit any person to perform any home services under its authority for which he or she is not licensed;

(4) No client shall be left unattended while any chemical service is in progress or while any electrical appliance is in use; and

(5) Each nail technology salon providing nail technology home

services shall post a daily itinerary for each licensee providing home services. The kit for each licensee shall be available for inspection at the salon or at the home of the client receiving services.

Sec. 81. Agents of the department may make operation inspections in the homes of clients if such inspections are limited to the activities, procedures, and materials of the licensee providing nail technology home services.

Sec. 82. No licensee may perform nail technology home services except when employed by or under contract to a nail technology salon holding a valid nail technology home services permit.

Sec. 83. Each nail technology home services permit shall be subject to renewal at the same time as the nail technology salon license and shall be renewed upon request of the permitholder if the salon is operating its nail technology home services in compliance with the Nebraska Cosmetology Act and if the salon license is renewed. No permit that has been revoked or lapsed may be reinstated or transferred to another owner or location.

Sec. 84. The owner of each salon holding a nail technology home services permit shall have full responsibility for ensuring that the nail technology home services are provided in compliance with all applicable laws and rules and regulations and shall be liable for any violations which occur.

Sec. 85. Section 71-3,169, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,169. (1) The department shall conduct inspections as required by the Nebraska Cosmetology Act. Two types of inspections shall be conducted to be known as operation inspections and accreditation inspections. An operation inspection shall be conducted to ascertain that an establishment is operating in full compliance with all laws, rules, and regulations. An accreditation inspection shall be conducted to accomplish the purposes of an operation inspection and to ascertain that a school of cosmetology, a nail technology school, a school of electrology, or an apprentice salon is maintaining academic standards and requirements of a quality consistent with the purpose of the Nebraska Cosmetology Act. All accreditation inspections shall be announced at least two weeks prior to the actual inspection.

(2) The board and the department shall adopt and promulgate rules and regulations governing the standards and criteria to be used in the conduct of inspections, the rating system to be used, and the level of achievement necessary to receive a passing grade.

(3) Operation inspections shall be unannounced and shall be conducted during the normal working hours of the establishment. The inspector shall make every effort to gather the information he or she needs to complete the operation inspection in an inconspicuous manner.

(4) At the conclusion of the inspection, the owner or manager of the establishment shall receive a copy of the rating form, which shall be promptly displayed, and a verbal statement of any deficiencies noted.

Sec. 86. Section 71-3,170, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,170. If a cosmetology establishment, a nail technology establishment, or an electrology establishment receives a rating of unsatisfactory, it shall submit evidence to the department within fifteen days providing proof of corrective action taken. A repeat inspection shall be conducted within sixty days ~~of~~ after the original inspection to determine if corrective action has occurred. The department may assess a fee for each repeat inspection required. If the establishment receives an unsatisfactory rating on the repeat inspection, or if evidence is not submitted within fifteen days, the establishment license shall immediately be placed on inactive status pending action by the department, and the establishment may not operate in any manner while its license is inactive.

The owner or manager of an establishment whose license has been placed on inactive status shall appear before the board and the department to show cause why the department should not ask the Attorney General to initiate steps to revoke the license. The department may, as a result of such appearance, grant additional time for corrective action to occur, but the establishment may not operate during such time. The establishment may not return to operation until it has achieved a satisfactory rating on an inspection.

Sec. 87. Section 71-3,174, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,174. (1) Persons and cosmetology, nail technology, and electrology establishments holding licenses, registrations, or permits under the Nebraska Cosmetology Act shall be subject to the disciplinary actions described in section 71-155 and in sections 71-3,170 to 71-3,173 upon the finding by the director that a violation has occurred.

(2) A person not holding a license, registration, or permit under the Nebraska Cosmetology Act shall, upon conviction of violation of such act, except as specific penalties are otherwise imposed, be guilty of a Class II misdemeanor. Any such person convicted of a second violation of the Nebraska Cosmetology Act, except as specific penalties are otherwise imposed, shall be guilty of a Class I misdemeanor.

(3) Any person engaging in any of the practices of cosmetology, ~~or~~ operating a cosmetology establishment, engaging in any of the practice of nail technology, operating a nail technology establishment, ~~or~~ engaging in any of the practices of electrology, or operating an electrology establishment without being duly licensed or registered under the Nebraska Cosmetology Act, any person engaging in the provision of home services without having complied with such act, or any person found to be acting in violation of the Nebraska Cosmetology Act may be restrained by a temporary or permanent injunction.

Sec. 88. Section 71-3,177, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,177. Each of the following may be considered an act of unprofessional conduct when committed by a person licensed or registered under the Nebraska Cosmetology Act:

(1) Performing any of the practices of cosmetology, nail technology, or electrology for which an individual is not licensed or registered;

(2) Obstructing, interfering, or failing to cooperate with an inspection or investigation conducted by an authorized representative of the department when acting in accordance with the Nebraska Cosmetology Act;

(3) Failing to report to the department a suspected violation of the Nebraska Cosmetology Act;

(4) Aiding and abetting an individual to practice any of the practices of cosmetology, nail technology, or electrology for which he or she is not licensed or registered;

(5) Engaging in any of the practices of cosmetology, nail technology, or electrology for compensation in an unauthorized location;

(6) Engaging in the practice of any healing art or profession for which a license is required without holding such a license;

(7) Enrolling a student or an apprentice without submitting a complete student entrance notification to the department;

(8) Knowingly falsifying any student or apprentice record or report;

(9) Initiating or continuing home services to a client who does not meet the criteria established in the Nebraska Cosmetology Act;

(10) Knowingly issuing a certificate of completion or diploma to a student or an apprentice who has not completed all requirements for the issuance of such document;

(11) Failing, by a school of cosmetology, a nail technology school, a school of electrology, or an apprentice salon, to follow its published rules;

(12) Violating, by a school of cosmetology, nail technology school, or school of electrology, any federal or state law involving the operation of a vocational school or violating any federal or state law involving participation in any federal or state loan or grant program;

(13) Knowingly permitting any person under supervision to violate any law, rule, or regulation or knowingly permitting any establishment under supervision to operate in violation of any law, rule, or regulation;

(14) Receiving two unsatisfactory inspection reports within any sixty-day period; and

(15) Engaging in any of the practices of cosmetology, nail technology, or electrology while afflicted with any active case of a serious contagious disease, infection, or infestation, as determined by the department, or in any other circumstances when such practice might be harmful to the health or safety of clients.

Sec. 89. Section 71-3,179, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,179. The department, with the assistance of the board, shall adopt and promulgate all rules, regulations, and guidelines necessary for the administration of the Nebraska Cosmetology Act. In particular, the department shall adopt and promulgate the following rules and regulations:

(1) Minimum standards governing the licensure, relicensure, and discipline of licensees;

(2) Operation of schools of cosmetology, nail technology schools, schools of electrology, and apprentice salons, including standards and requirements governing application, curriculum, course of study, hours and credits, staff and faculty, student and nail technology student admission and registration, student instructor, nail technology student instructor, and apprentice admission and registration, instruction and supervision, textbooks,

transfers, examinations, grading and evaluation, graduation requirements, records, reporting requirements, sanitation, attire, school and salon rules and policies, smoking, subject content, lesson plans, methods of counting and recording hours and credits, library facilities, space requirements, teaching equipment and apparatus, supplies, organization and administration, transfer of location, closing a school, change of ownership or location, scheduling of courses, class size, ratio of instructors or nail technology instructors to students or nail technology students, clinical experience requirements and locations, inspections, license renewal procedures and requirements, and any other related areas;

(3) Minimum standards governing the licensure, relicensure, discipline of licensees, and operation of satellite classrooms, including movement of students among satellite classrooms and home schools, location of records, ratio of students to instructors, inspections, reporting requirements, and any other related areas;

(4) Minimum standards governing the licensure, relicensure, discipline of licensees, and operation of cosmetology salons, nail technology salons, and skin care salons, including standards and requirements governing space, facilities, equipment, hours of operation, cleanliness and sanitation, smoking, laundry, storage facilities, instruments, implements, materials and supplies, methods and particular aspects of sanitizing, pets, toilet facilities, water, client files, employment and supervision of temporary practitioners, practices permitted, application, inspection, sale or change of ownership, closing a salon, records, reporting requirements, license renewal standards and procedures, and any other related areas;

(5) Situations constituting a conflict of interest for board members and procedures for dealing with such situations;

(6) Procedures for the conduct and grading of examinations and performance standards for examinations;

(7) Minimum standards governing the licensure, relicensure, discipline of licensees, and operation of cosmetic establishments including type and amount of instruction provided to cosmeticians or electrologists, safety and sanitary procedures and standards, application, inspection, reporting requirements, license renewal standards and procedures, and any other related areas;

(8) Minimum standards governing the registration, expiration, discipline, and practice of cosmeticians, nail technicians, electrologists, guest artists, nail technology students, nail technology student instructors, students, apprentices, student instructors, nail technology temporary practitioners, and temporary practitioners, including application, supervision, type of training received, locations of practice, reporting requirements, grounds for discipline, and any other related areas;

(9) Criteria and standards for the approval and classification of continuing education programs, including reviewers, material required of applicants, fees, qualifications of presenters, content of programs, verification of programs as approved, verification of hours as reported by licensees, application, nonattendance programs, exemptions, and any other related areas;

(10) Criteria and standards to be used in the conduct of inspections and procedures to be used in the conduct of inspections and investigations, including rating systems, level of achievement necessary to receive a passing grade, conduct of inspections and investigations, and any other related areas;

(11) Minimum standards governing the granting, discipline of, and renewal of home services permits, nail technology home services permits, or home services permits for electrology and the ~~provisions~~ provision of home services; and

(12) Acts constituting unprofessional conduct on the part of licensed and registered practitioners and licensed establishments and nail technology establishments.

Sec. 90. Original sections 71-340 to 71-343, 71-347, 71-351, 71-352, 71-356, 71-362, 71-364, 71-371, 71-374, 71-375 to 71-377, 71-381, 71-382, 71-386, 71-3,106, 71-3,169, 71-3,170, 71-3,174, 71-3,177, and 71-3,179, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 91. The following section is outright repealed: Section 71-361, Reissue Revised Statutes of Nebraska.